IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5036 OF 2005

M/s. Hindustan Press ..Petitioner.

Vs.

M/s. Telecab Industries ..Respondent.

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Ms. Manorama Mohanty with Simeer i/b K.R. Parekh & Co. for the Petitioner.

Mr. P.K. Dhakephalkar for the Respondent.

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CORAM: DR. D.Y. CHANDRACHUD, J.

7th June, 2006.

P.C. :

Rule, made returnable forthwith. Counsel appearing for the Respondent waives service. By consent taken up for hearing and final disposal.

The Respondent has instituted a declaratory suit before the Small Causes Court which is R. A. D. Suit 6475 of 1986. The Petitioner has instituted a suit for eviction under Section 41 of the Presidency Small Causes Court Act, 1882 which is numbered as L.E &C. Suit No.33/41 of 2003. An application filed by the Respondent for stay of the subsequent suit instituted by the

Petitioner under Section 10 of the Code of Civil Procedure has been allowed by the impugned order dated 17th February, 2005. In my view, the appropriate order to pass in this proceeding will be to direct that since both the suits are pending before the Court of Small Causes and similar issues arise therein, both the suits be tried together and be disposed of by the same Learned Judge of the Trial Court. There shall be an order accordingly in these terms. In order to facilitate a disposal of the two suits together, the impugned order dated 17th February, 2005 is quashed and set aside. L.E. & C. Suit 33/41 of 2003 shall accordingly be clubbed together with R. A.D. Suit 6475 of 1986 and shall be assigned by the Chief Judge of the Small Causes Court to the same Learned Trial Judge to facilitate expeditious disposal. The Petition is accordingly disposed of.